

REMARKS

Claims 15, 18-20, and 22-37 were previously pending in the application. This Amendment amends claim 30. Claims 15, 18-20, 22-29, and 31-37 remain unchanged. Claims 15 and 30 are independent.

Entry of this Amendment is proper because it does not raise any new issues requiring further search by the Examiner, narrows the issues on appeal, and is believed to place the present application in condition for immediate allowance.

Allowed Subject Matter:

Applicants gratefully acknowledge the Office Action's indication that claims 20 and 28 would be allowable if rewritten in independent form.

Applicants also gratefully acknowledge the Office Action's indication that claims 36 and 37 would be allowable if rewritten in independent form and to overcome the rejections under 35 U.S.C. § 112, second paragraph. Claim 30, from which claims 36 and 37 depend, has been amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. Therefore, the rejection of claims 36 and 37 under 35 U.S.C. § 112, second paragraph, is overcome and claims 36 and 37 should now be allowable.

The Rejections under 35 U.S.C. § 112

Claims 30-37 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

With respect to the rejection based on the first and second supports, claim 30 is amended to overcome this rejection.

With respect to rejection based on the rails allegedly being both secured and not secured along the same edges, Applicants respectfully traverse this rejection.

Contrary to the assertion in the Office Action, Applicants respectfully submit that claim 30 does not recite that the rails are both secured and not secured along the same edges. Instead, claim 30 recites, inter alia:

upper retaining rails having a front end and a back end,
[...]
*said front end of said upper retaining rails and said front
end of said lower retaining rails being secured to one another*
across at least one of said front edge of said plate and said rear
edge of said plate [...], and
said upper retaining rails and said lower retaining rails are
not secured to one another *along extents thereof* between said front
edge of said plate and said rear edge of said plate.

Claim 30 clearly and particularly recites the features of the upper and lower retaining rails, and therefore, is clear and definite.

Applicants respectfully request withdrawal of this rejection.

The Claimed Invention

Conventional shelf bases may provide retaining rails located on the underside of the shelf base such that containers can be suspended from the shelf base, thereby efficiently using the volume of a compartment under the shelf.

In stark contrast, an exemplary embodiment of the claimed invention, as recited by, for example, independent claim 15, is directed to a shelf base for a refrigerator, the shelf base including a plate, lower retaining rails extending along a lower side of the plate for attachment for a support for holding chilled goods, and upper retaining rails for another support extend along the upper side of the plate. In this manner, the present invention can provide a support for chilled goods to be attached to the upper side of the shelf plate, as well as the lower side of the shelf plate, thereby improving the diversity of possibilities for utilizing the space of such a shelf base.

Another exemplary embodiment of the claimed invention, as recited by, for example, independent claim 30 is directed to a shelf base including a plate having a front edge, a rear edge, a lower side, and an upper side. The shelf base also includes upper retaining rails for attachment of the second support that holds chilled goods such that the second support can

be extended relative to the upper retaining rails from an inward location into an outward location and can be retracted relative to the upper retaining rails from the outward location into the inward location. Additionally, the front end of the upper retaining rails and the front end of the lower retaining rails can be secured to one another across at least one of the front edge of the plate and the rear edge of the plate such that the upper retaining rails and the lower retaining rails are secured against movement relative to the plate in the extension and retraction directions of the first support and the second support with respect to the shelf base. Moreover, the upper retaining rails and the lower retaining rails are not secured to one another along the extents thereof between the front edge of the plate and the rear edge of the plate.

As explained above, these features of the present invention can provide a support for chilled goods to be attached to the upper side of the shelf plate, as well as the lower side of the shelf plate, thereby improving the diversity of possibilities for utilizing the space of such a shelf base.

The Rejections under 35 U.S.C. § 102

In the Office Action, claims 15, 18, 22, 24, 25, 27, and 29-32 are rejected under 35 U.S.C. §102 (b) as being anticipated by the Whalen reference (US Patent No. 2,103,885). Claims 30, 32, 34, and 35 are rejected under 35 U.S.C. §102 (b) as being anticipated by the Verchere reference (US Patent No. 5,036,990). Applicants respectfully traverse these rejections.

The Rejections based on the Whalen Reference

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. [...] The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131.

Applicants respectfully submit that the Whalen reference does not disclose the features of the claimed invention including a shelf base having a plate, lower retaining rails extending along a lower side of the plate for attachment for a support for holding chilled

goods, and upper retaining rails for another support extend along the upper side of the plate, as recited by independent claim 15. As explained above, these features are important for providing a support for chilled goods to be attached to the upper side of the shelf plate, as well as the lower side of the shelf plate, thereby improving the diversity of possibilities for utilizing the space of such a shelf base.

The Whalen reference very clearly does not disclose these features. Indeed, the Whalen reference very clearly fails to disclose at least a plate, as recited in claim 15. Instead, the Whalen reference discloses a shelf 9 having an open cross bar or rod construction, not a plate.

The Office Action alleges that the member 26 of the Whalen reference is considered to be a plate. However, contrary to the assertions in the Office Action, the Whalen reference very clearly discloses that the member 26 is a cross bar, not a plate.

Whalen very clearly does not disclose a shelf base having a plate, as recited by independent claim 15.

Applicants respectfully request withdrawal of this rejection.

Moreover, Applicants respectfully submit that the Whalen reference does not disclose the features of the claimed invention including at least a plate having a front edge, a rear edge, a lower side, and an upper side, as recited by independent claim 30. Additionally, the Whalen reference does not disclose the features of the claimed invention including at least that the upper retaining rails and the lower retaining rails are not secured to one another along extents thereof between the front edge of the plate and the rear edge of the plate, as recited in claim 30. As explained above, these features are important for providing a support for chilled goods to be attached to the upper side of the shelf plate, as well as the lower side of the shelf plate, thereby improving the diversity of possibilities for utilizing the space of such a shelf base.

The Whalen reference very clearly does not disclose these features. Indeed, the Whalen reference very clearly fails to disclose at least a shelf base including a plate having a front edge, a rear edge, a lower side, and an upper side, as recited in claim 30.

As explained above, the Office Action alleges that the member 26 of the Whalen reference is considered to be a plate. However, contrary to the assertions in the Office Action, the Whalen reference very clearly discloses that the member 26 is a cross bar, not a plate. Whalen very clearly does not disclose a shelf base having a plate having a front edge, a rear edge, a lower side, and an upper side, as recited in claim 30.

Moreover, the Whalen reference very clearly fails to disclose at least that the upper retaining rails and the lower retaining rails are not secured to one another along extents thereof between the front edge of the plate and the rear edge of the plate, as recited in claim 30. Instead, the Whalen reference very clearly discloses that its upper and lower retaining rails are connected to one another mid-way along the extent.

Applicants respectfully request withdrawal of this rejection.

The Rejections based on the Verchere Reference

As set forth above, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. [...] The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131.

Applicants respectfully submit that the Verchere reference does not disclose the features of the claimed invention including a shelf base having upper retaining rails for another support extend along the upper side of the plate, as recited by independent claim 15. As explained above, these features are important for providing a support for chilled goods to be attached to the upper side of the shelf plate, as well as the lower side of the shelf plate, thereby improving the diversity of possibilities for utilizing the space of such a shelf base.

The Verchere reference very clearly does not disclose these features. Indeed, the Verchere reference very clearly fails to disclose at least a shelf base having upper retaining rails for another support extend along the upper side of the plate, as recited in claim 15. Instead, the Verchere reference merely discloses suspending one or more trays 1 from the lower retaining rails 28, 33, not the upper retaining rails 27, 32.

Verchere does not disclose a shelf base having upper retaining rails for another support extend along the upper side of the plate, as recited by independent claim 15.

Applicants respectfully request withdrawal of this rejection.

Moreover, Applicants respectfully submit that the Verchere reference does not disclose the features of the claimed invention including at least that said upper retaining rails for attachment of the second support that holds chilled goods such that the second support can be extended relative to said upper retaining rails from an inward location into an outward location and can be retracted relative to said upper retaining rails from said outward location into said inward location, as recited in claim 30.

Additionally, the Verchere reference does not disclose at least said front end of said upper retaining rails and said front end of said lower retaining rails being secured to one another across at least one of said front edge of said plate and said rear edge of said plate such that said upper retaining rails and said lower retaining rails are secured against movement relative to said plate in said extension and retraction directions of the first support and the second support with respect to said shelf base, as recited in claim 30.

The Verchere reference very clearly does not disclose these features. Instead, as explained above, the Verchere reference merely discloses suspending one or more trays 1 from the lower retaining rails 28, 33. The Verchere reference does not disclose attachment of a support to the upper retaining rails 27, 32.

Assuming in *arguendo* that a support could be attached to the upper retaining rails 27, 32, the structure of the hooks 3 and 4 of the Verchere reference very clearly would prohibit the second support from being extended relative to the upper retaining rails from an inward location into an outward location and from being retracted relative to the upper retaining rails from the outward location into the inward location, as recited in claim 30.

The Verchere reference also does not disclose at least said front end of said upper retaining rails and said front end of said lower retaining rails being secured to one another across at least one of said front edge of said plate and said rear edge of said plate such that said upper retaining rails and said lower retaining rails are secured against movement relative to said plate in said extension and retraction directions of the first support and the second support with respect to said shelf base, as recited in claim 30. Indeed, the Office Action does not cite any support for these features in the Verchere reference. The Verchere

reference is silent with respect to securing the alleged upper and lower retaining rails 3, 4 against movement relative to the alleged plate 40 in the extension and retraction directions, as recited in claim 30.

Applicants respectfully request withdrawal of this rejection.

The Rejections under 35 U.S.C. § 103

Claim 26 is rejected under 35 U.S.C. §103(a) as being unpatentable over the Whalen reference in view of the Avery reference (US Patent No. 2,018,002). Claims 15, 18, 19, 22-25, 27, and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Hearst reference (US Patent No. 2,450,337) in view of the Frank reference (US Patent No. 5,348,207). Claim 33 is rejected under 35 U.S.C. §103(a) as being unpatentable over the Verchere reference in view of the Hearst reference. Applicants respectfully traverse these rejections.

With respect to the rejection over the Whalen reference in view of the Avery reference, and also the rejection over the Verchere reference in view of the Hearst reference, Applicants respectfully submit that the Avery reference and the Hearst reference do not remedy the deficiencies of the Whalen reference and the Verchere reference, respectively, as explained above.

Instead, the Avery reference merely discloses a support that includes a base plate with ribs, having indentations. On the other hand, the Hearst reference merely discloses a shelf base and upper and lower tiltable drawers.

The Avery reference and the Hearst reference do not remedy the deficiencies of the Whalen reference and the Verchere reference. Applicants respectfully request withdrawal of these rejections.

With respect to the rejection of independent claim 15 over the Hearst reference in view of the Frank reference, Applicants respectfully traverse this rejection.

The Frank reference discloses a drawer-containing vehicle top carrier apparatus 10 that is mounted on the roof 11 of a vehicle 12. Applicants respectfully submit, however,

that the Examiner may not rely upon the Frank reference under 35 U.S.C. § 103 because the Frank reference is non-analogous art.

To qualify as analogous art, a reference must either be (1) within the field of Applicants endeavor, or if not, (2) the subject matter logically would have commended itself to an inventor's attention in considering his or her invention as a whole. See M.P.E.P. § 2141.01(a)(I) citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1397 (2007).

In the present instance, the Frank reference clearly is not within the field of Applicants' endeavor.

The field of Applicants' endeavor is the field of home appliances and, more particularly, refrigerators. In stark contrast, the Frank reference is within the completely different and unrelated field of vehicle rooftop carrier apparatus for a motor vehicle.

The field of endeavor of vehicle rooftop carrier apparatus for motor vehicles clearly is different from the field of endeavor of household appliances such as refrigerators.

For at least the foregoing reasons, the Frank reference clearly is not within the field of Applicants' endeavor.

As set forth above, a reference that is not within the field of Applicants endeavor may qualify as analogous art if the subject matter logically would have commended itself to an inventor's attention in considering his or her invention as a whole. See M.P.E.P. § 2141.01(a)(I) citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1397 (2007).

In the present instance, the subject matter of the Frank reference logically would *not* have commended itself to an inventor's attention in considering his or her invention as a whole.

Indeed, the subject matter of a vehicle rooftop carrier apparatus for a motor vehicle according to the Frank reference logically would *not* have commended itself to an inventor's attention in considering, as a whole, ways to improve the diversity of possibilities for utilizing the space of a shelf base for a household appliance, such as a refrigerator. The Frank reference has absolutely nothing to do with solving the problem of improving the diversity of possibilities for utilizing the space of a shelf base for a household appliance, as in the present invention as a whole.

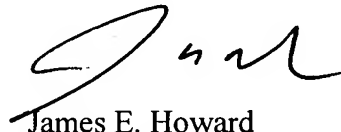
For at least these reasons, the subject matter of the Frank reference logically would *not* have commended itself to an inventor's attention in considering his or her invention as a whole, and therefore, the Frank reference does not qualify as analogous art.

None of the applied references discloses or suggests the subject matter defined by claims 15, 18-20, and 22-37. Applicants respectfully request withdrawal of these rejections.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of claims 15, 18-20, and 22-37 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,



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